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AMHD, UM [fax: (808) 453-6995]
Fiscal

IN THE _____ COURT OF THE THIRD CIRCUIT
_____ DIVISION
STATE OF HAWAII

STATE OF HAWAII

vs.

_____,
Defendant.

CASE NO. _____

**ORDER FOR EXAMINATION OF
COMMITTED DEFENDANT UPON
APPLICATION FOR CONDITIONAL
RELEASE OR DISCHARGE FROM THE
CUSTODY OF THE DIRECTOR OF
HEALTH, SETTING A HEARING ON THE
APPLICATION, AND ORDER FOR
TRANSPORT**

[§§704-412(1), (2); 704-414; 704-415]

Hearing Date

Date: _____

Time: _____

Next Hearing

Date: _____

Time: _____

JUDGE: _____

**ORDER FOR EXAMINATION OF COMMITTED DEFENDANT UPON APPLICATION
FOR CONDITIONAL RELEASE OR DISCHARGE FROM THE CUSTODY OF THE
DIRECTOR OF HEALTH, SETTING A HEARING ON THE APPLICATION, AND
ORDER FOR TRANSPORT**

_____’s *Application for Conditional Release or Discharge of the Defendant from the Custody of the Director of Health* pursuant to Sections 704-412 and 707-414, Hawai‘i Revised Statutes (“HRS”), came on for hearing on _____ at _____ .m. with Defendant physically present present by video. Defendant’s counsel, _____, and the State of Hawai‘i, represented by Deputy Prosecuting Attorney, _____, were also present.

The Court, having considered the Application, the arguments of the parties, and the records and files in this case, noting that at least ninety (90) days has passed since the original order of commitment pursuant to HRS Section 704-411(1)(a) or that at least sixty (60) days has passed since the order revoking conditional release pursuant to HRS Section 704-413, and for good cause appearing,

IT IS HEREBY ORDERED that:

A. APPOINTMENT OF EXAMINER(S), HRS §704-414(1)

Defendant shall be examined by:

State Designate
Adult Mental Health Division
Courts and Corrections Branch
1700 Lanakila St.
Honolulu, Hawai‘i 96817

Psychiatrist’s or Psychologist’s Name

Selected by: Prosecutor Defense Counsel

Psychiatrist’s or Psychologist’s Name

Selected by: Prosecutor Defense Counsel

B. EXISTING RECORDS, HRS §§704-404(9); 704-414(1)

The Adult Client Services Branch shall obtain and timely make available for inspection by examiner(s) all existing medical, mental health, social, police, and juvenile records, including those expunged, and other pertinent records in the custody of public agencies, notwithstanding any other statutes and Rule 16 of the Hawai'i Rules of Penal Procedure.

The Court further orders that any substance use disorder patient records within the scope of 42 C.F.R. part 2 that are in the custody of public agencies shall be provided to the Adult Client Services Branch for review by the examiner(s).

C. PLACE OF EXAMINATION

Defendant shall be examined at:

- A hospital or other suitable facility as deemed appropriate by the Director of Health.
- Other (please specify): _____

D. CONTENTS OF REPORT, HRS §§704-414(1); 704-404(3), (5)(a), (b), (d), and (e), (8); and 704-415

The examiner(s)' report(s) shall include the following:

1. A description of the nature of the examination.
2. An opinion as to whether Defendant is still affected by a physical or mental disease, disorder, or defect. If so, a diagnosis of the physical or mental condition of Defendant at the present time.
3. An opinion as to whether Defendant can safely be discharged from the custody of the Director of Health, without danger to Defendant, or to the person or property of others.
4. An opinion as to whether the Defendant can be controlled adequately and provided with proper care, supervision, and treatment if granted conditional release pursuant to HRS §704-411(1)(b), without danger to Defendant or to the person or property of others, and if so, what the conditions of release should be.

5. A statement that the diagnosis and opinion rendered were arrived at independently of other examiners, unless there is a showing of a clear need for communication between or among the examiners for clarification. A description of the communication shall be included in the report.
6. Any examiner shall be permitted to make a separate explanation reasonably serving to clarify the examiner's diagnosis or opinion.

E. OTHER

F. DUE DATE OF EXAMINER REPORT(S)

The examiner(s) shall file a written report with the Court no later than seven (7) days prior to the hearing on the Application. The report(s) of the examination(s), including any supporting documents, shall be filed with the Clerk of the Court via the Judiciary Electronic Filing System for distribution to the prosecuting attorney, Defendant's counsel, and the probation office.

Any request for an extension of the due date of an examiner's report shall be made in writing and filed with the Court prior to the due date.

G. EVIDENTIARY HEARING ON APPLICATION; BURDEN OF PROOF

Defendant is ordered to appear for a hearing on the Application to determine whether Defendant should be discharged or released on conditional release on _____ at _____ .m. (within sixty (60) days from the filing of the Application).

Pursuant to HRS Section 704-415, the hearing on the Application shall be deemed civil in nature, and the burden shall be on the Applicant to prove that the Defendant is no longer affected by a physical or mental disease, disorder, or defect or may safely be either released on the conditions applied for or discharged from the custody of the Director of Health.

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H. ORDER FOR TRANSPORT TO COURT

IT IS FURTHER ORDERED that:

Representatives of the Sheriff's Division or the Department of Public Safety shall transport the Defendant from _____ to the _____ Court of the Third Circuit, State of Hawai'i, for a further hearing on _____ at _____ .m., and shall remain with the Defendant until the conclusion of the hearing, at which time Defendant may or may not be transported back to the facility deemed appropriate by the Director of Health ("DOH Facility").

In the event that Defendant's treating physician determines that transport to the next hearing would present a risk of danger to Defendant or to others, or if the Defendant chooses to waive their physical presence at the hearing, Defendant's presence at the hearing may be by way of video-conferencing.

Representatives of the Sheriff's Division or the Department of Public Safety shall transport the Defendant from the DOH Facility, and back to said facility, for any further hearings, as ordered by this Court.

DATED: _____, Hawai'i, _____.

JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM on _____:

Deputy Prosecuting Attorney

Defense Counsel

Print Name

Print Name



If you need an accommodation for a disability when participating in a court program, service, or activity, please contact the ADA Coordinator as far in advance as possible to allow time to provide an accommodation. Call the ADA Coordinator at 808-961-7629, Fax 808-961-7577 or send an e-mail to adarequest@courts.hawaii.gov. The ADA Coordinator will try to provide, but cannot guarantee, the requested auxiliary aid, service, or accommodation.